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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/049,810 | 04/30/2002 | Adrea Nascimbene | 3573-13 | 6127 |
| 23117 | 7590 | 12/14/2005 | EXAMINER | |
| NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203 | | | PEREZ, JULIO R | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2681 | |
| DATE MAILED: 12/14/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | | |
|------------------------------|------------------------|--|---------------------|--|
| Office Action Summary | Application No. | | Applicant(s) | |
| | 10/049,810 | | NASCIMBENE, ADREA | |
| | Examiner | | Art Unit | |
| | Julio R. Perez | | 2681 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

Response to Arguments

1. Applicant's arguments with respect to claims 7-14 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) The invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 7-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Charas (US Pat. No. 6,381,462).

Regarding claim 7, Charas discloses a point-multipoint radio communication system comprising: plural radio nodes (col. 2, lines 65-67-col. 3, lines 1-21-col. 4, lines 10-29; Fig. 1, refs. 14, 26); and plural subscriber access terminals (col. 2, lines 65-67-col. 3, lines 1-21-col. 4, lines 10-29; Fig. 1, refs. 14, 26), each subscriber access terminal being normally allocated to one of the plural radio nodes as its respective original radio node, the respective original radio node being an additional traffic capability (col. 4, line 30-67-col. 5, lines 24-50), each subscriber access terminal having an antenna directed to its respective original radio node and being adapted to switch automatically and autonomously from its respective original radio node to an alternative host radio node (col. 4, line 30-67-col. 5, lines 24-50-col. 6, lines 26-46), which host

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node is normally allocated to another access terminal, upon detecting failure of the respective original radio node (col. 4, line 30-67-col. 5, lines 24-50-col. 6, lines 26-46; the fixed terminal may be switched from a degrading connection to a better established signal quality of a new channel, thus, radio station; see also col. 6, lines 12-17).

Regarding claim 8, Charas discloses, wherein at least one of the subscriber access terminals has redundancy switching logic (col. 4, line 30-67-col. 5, lines 24-50-col. 6, lines 26-46).

Regarding claim 9, Charas discloses, further comprising a management system which controls the plural radio nodes and which detects and turns off said respective original radio node upon the failure, and which routes traffic connections belonging to an affected one of the plural access terminals to said alternative host radio node (col. 4, line 30-67-col. 5, lines 24-50-col. 6, lines 12-46; Fig. 1, ref. 34).

Regarding claim 10, Charas discloses, wherein said management system communicates to the affected one of the plural access terminals to switch to the respective original radio node upon restoration of the original radio node (col. 4, line 30-67-col. 5, lines 24-50-col. 6, lines 12-46).

Regarding claim 11, Charas discloses, wherein said alternative host radio node is located in a same hub as the respective original radio node (col. 4, line 30-67-col. 5, lines 24-50-col. 6, lines 26-46, the target radio station may be co-located in same area as the home radio station or in a different hub).

Regarding claim 12, Charas discloses, wherein said alternative host radio node is located in a hub different than the respective original radio node (col. 4, line 30-67-

col. 5, lines 24-50-col. 6, lines 26-46, the target radio station may be co-located in same area as the home radio station or in a different hub; Fig. 1).

Regarding claim 14, Charas discloses, wherein at least one of the plural access terminals is provided with a single antenna with electronically routed beams to the two different hubs (col. 4, line 30-67-col. 5, lines 24-50-col. 6, lines 26-46, the target radio station may be co-located in same area as the home radio station or in a different hub; Fig. 1).

Regarding claim 13, Charas discloses, wherein at least of the plural access terminals is provided with two antennas directed towards said two different hubs and with a two-way radio frequency switch (col. 4, line 30-67-col. 5, lines 24-50-col. 6, lines 12-46; col. 7, lines 47-62).

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Pub. No. 20020068612 to Carey et al.

Systems using sectored coverage area.

Pub. No. 20040198401 to Rodgers et al.


Steering smart antennas.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julio R. Perez whose telephone number is (571) 272-7846. The examiner can normally be reached on 7:00 - 4:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph H. Feild can be reached on (571) 272- 4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Julio Perez
12/3/05


JOSEPH FEILD
SUPERVISORY PATENT EXAMINER